

Kenneth J. Abere, Jr., OSB #942345

Ken.Abere@lewisbrisbois.com

LEWIS BRISBOIS BISGAARD & SMITH LLP

888 SW Fifth Avenue, Suite 900

Portland, Oregon 97204-2025

Telephone: 971.712.2800

Facsimile: 971.712.2801

Attorney for Defendants

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

GARY BURGESS,

Plaintiff,

vs.

**SAMPSON B. BRUE, JR., an individual;
and NBA MEDIA VENTURES, LLC, a
Delaware Corporation,**

Defendants.

Case No.

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446

(Multnomah County Circuit Court Case No. 19CV53946)

TO: The Judges and Clerk of the United States District Court for the District of Oregon

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, defendant Sampson B. Brue, Jr. (“defendant Brue”), hereby files this Notice of Removal of Civil Action, removing the above-captioned action from the Circuit Court of the State of Oregon for the County of Multnomah, in which it is pending, to the United States District Court for the District of Oregon.

In support of removal, Defendant Brue states as follows:

NOTICE OF REMOVAL IS TIMELY

1. On or about December 17, 2019, plaintiff Gary Burgess (“plaintiff”) initiated this action by filing a Complaint in the Circuit Court of the State of Oregon for the County of Multnomah, docketed at Case No. 19CV53946 (“State Court Action”). The Complaint names Sampson B. Brue, Jr. and NBA Media Ventures, LLC, a Delaware corporation, as defendants. Exhibit 1 (Complaint); *see also* Exhibit 2 (Multnomah County Circuit docket for Case No. 19CV43275).

2. This notice of removal is timely filed under 28 U.S.C. § 1446(b), which provides that a notice of removal must be filed within 30 days after defendant receives, by service or otherwise, the initial pleading. Plaintiff served a copy of plaintiff’s complaint and summons to defendant Brue on January 6, 2020. Exhibit 3 (Summons and Certificate of Service).

3. No further proceedings have been had in the Multnomah County Circuit Court as of the date of this removal. Exhibit 2.

4. No previous requests have been made for the relief requested.

DIVERSITY JURISDICTION EXISTS

5. This is a civil action over which this court has original jurisdiction based on diversity of citizenship, pursuant to 28 U.S.C. § 1332, which provides, in relevant part, that district courts have original jurisdiction over actions where the matter in controversy exceeds \$75,000, exclusive of interest and costs, and where the action is between citizens of different states.

6. Plaintiffs’ Complaint alleges that plaintiff is a resident of Washington County, Oregon. Exhibit 1, ¶ 1.

7. Plaintiff's Complaint alleges that defendant Brue is a resident of Ventura County, California. Exhibit 1, ¶ 2.

8. Plaintiff's Complaint alleges that defendant Brue was negligent in operating his vehicle and the negligence led to a collision with plaintiff's vehicle. Exhibit 1, ¶¶ 8-9.

9. Plaintiff's Complaint alleges that defendant Brue was acting in the course and scope of his employment for NBA Media Ventures, LLC ("defendant NBA") at the time of the collision. Exhibit 1, ¶¶ 6-7.

10. Defendant NBA is a Delaware Limited Liability Company, with headquarters in Secaucus, New Jersey.

11. Plaintiffs' Complaint includes a \$4,925,977.32 prayer for relief stemming from the injuries plaintiff alleges he sustained in the accident with defendant Brue. Exhibit 1, ¶ 15. Therefore, the amount in controversy requirement as set forth in 28 U.S.C. § 1332, is satisfied.

12. Based on the foregoing, this Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332.

REMOVAL TO THIS DISTRICT IS PROPER

13. Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, removal of the above-captioned state court action to this court is appropriate.

14. Pursuant to 28 U.S.C. § 1441(a), removal to this court is appropriate as the district and division embracing the place where the state court action is pending.

15. Pursuant to 28 U.S.C. § 1446(b), defendant NBA consents to the removal.

///

///

///

16. Defendant Brue will promptly serve plaintiff with this Notice of Removal, informing plaintiff that this matter has been removed to federal court. Defendant Brue will also promptly file a copy of this Notice of Removal with the Circuit Court of Multnomah County, Oregon, where the action is pending.

DATED this 31st day of January, 2020.

LEWIS BRISBOIS BISGAARD & SMITH LLP

/s/ Kenneth J. Abere, Jr.

Kenneth J. Abere, Jr., OSB #942345

Ken.Abere@lewisbrisbois.com

888 SW Fifth Avenue, Suite 900

Portland, Oregon 97204-2025

Telephone: 971.712.2800

Facsimile: 971.712.2801

Attorney for Defendants

CERTIFICATE OF SERVICE

I certify that I served the foregoing **NOTICE OF REMOVAL** on the following attorneys by the method indicated below on the 31st day of January, 2020:

Attorneys for Plaintiff:

Ralph Rayburn
Rayburn Law Office
4905 SW Girffith Dr., Ste 105
Beaverton, OR 97005
ralph@rayburnlawoffice.com

_____ Via First Class Mail
_____ Via Federal Express
_____ ✓ Via CM/ECF System
_____ Via Hand-Delivery
_____ ✓ Via E-Mail

Attorneys for Defendant Sampson Brue:

Hilary A. Boyd
Davis Rothwell Earle & Xóchihua PC
200 SW Market Street, Suite 1800
Portland, OR 97201
Hboyd@davisrothwell.com

_____ Via First Class Mail
_____ Via Federal Express
_____ Via Facsimile
_____ Via Hand-Delivery
_____ ✓ Via E-Mail

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: /s/ Kenneth J. Abere, Jr.
Kenneth J. Abere, Jr., OSB #942345
Ken.Abere@lewisbrisbois.com

Attorney for Defendants